



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 6213-98

22 March 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 21 May 1991 after more than 11 years of prior active service. Your record reflects that on 23 August 1995 you were convicted by a special court-martial of fraternization with a female seaman under your direct supervision from September 1994 to April 1995; and adultery with the same individual from September to November 1994. The sentence imposed consisted of confinement for 30 days, forfeitures of \$800, and reduction in pay grade to BM1 (E-6).

On 25 October 1995 an administrative discharge board found that you had committed misconduct but recommended your retention in the Navy. However, both your commanding officer and the Commander, Navy Personnel Command recommended that you be discharged with a general discharge by reason of misconduct due to commission of a serious offense. Both of these recommendations noted that you had sex on numerous occasions with the female subordinate and helped to pay for her abortion. After review, the recommendation for a general discharge was approved by the Assistant Secretary of the Navy (Manpower and Reserve

Affairs). However, for some reason, you were honorably discharged by reason of misconduct due to a commission of a serious offense on 16 February 1996.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your many years of excellent service. The Board also noted your contentions that the commanding officer was overly influenced by his religious beliefs in wanting to discharge you, that you enjoyed the respect of your peers, that your spouse forgave you and that you were singled out for harsh treatment because you are African-American. However, the Board concluded that these factors and contentions were not sufficient to warrant reinstatement, given the seriousness of the offenses. In this regard, one of the core values of the Navy includes maintaining a strict professional relationship and trust with subordinates. You not only violated this relationship and trust but did so over a period of months. The Board further concluded that there is no evidence in the record, and you have submitted none, to support your contentions of racial or religious prejudice. Therefore, the Board concluded that reinstatement is not warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director